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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/961,159	09/21/2001	Christian H. Passow	2001P17283US	4657

7590 04/13/2004

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EXAMINER

DONOVAN, LINCOLN D

ART UNIT	PAPER NUMBER
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2832

DATE MAILED: 04/13/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/961,159

Applicant(s)

PASSOW ET AL.

Examiner

Lincoln Donovan

Art Unit

2832

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 26 January 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1 and 3-21 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1 and 3-21 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1 and 3-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lehman et al. [US 4,774,484] in view of McGary [US 3,290,628] and Reid et al. [US 5,907,267].

Lehman et al. disclose a auxiliary contact assembly for an electrical switching apparatus [102] comprising:

- an actuator [110];
- a housing [figure 3];
- an electrical contact system [181, 185, figure 16];
- a pusher [170] selectively actuatable by the actuator to operate the contact system;
- flexible means [104, 104A] for joining the housing to the electrical switching apparatus; and
- locking means [134, column 3, lines 58-67] for resiliently locking the housing to the electrical switching apparatus.

Lehman et al. disclose the instant claimed invention except for: the locking means being formed of a mortise and tenon, the specific arrangement of the actuator

element relative to the auxiliary switch and the specific arrangement of the locking means on the housing.

McGary discloses a contactor [10] having auxiliary switches attached thereto by means of a (mortise/dovetail)/tenon joint [98, figure 1].

It would have been obvious to one having ordinary skill in the art at the time the invention was made to use the (mortise/dovetail)/tenon joint design of McGary for the locking means of Lehman et al. for the purpose of providing a tight lock when the auxiliary switch is attached to the switching apparatus.

Reid et al. disclose an auxiliary switch for an electromagnetic contactor including a resilient locking portion [42c] cooperating with the contactor housing.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to include a resilient locking portion on one of the contactor housing or switch module of Lehman et al., as modified, for the purpose of securing the module in place once mounted.

Lehman et al., as modified, discloses the claimed invention except for the specific positioning of the actuator. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have the actuator protrude from the switching apparatus instead of the auxiliary switch, since it has been held that a mere reversal of the essential working parts of a device involves only routine skill in the art. *In re Einstein*, 8 USPQ 167.

The specific positioning lock types would have been obvious design considerations based on the particular type of switching apparatus used and necessary switching configurations.

### ***Response to Arguments***

Applicant's arguments filed 01-26-04 have been fully considered but they are not persuasive.

Applicant argues:

[1]: The combination of references fails to show the connection means being actuated by the linear motion of the housing and from in front of the electrical switching apparatus to operate the contact;

[2]: The connection method of Lehman requires "substantial" side access;

[3]: McGary discloses disclose both the use of mortise and tenon and screw connections to interconnect contact carriers to the housing;

[4]: There would not have been sufficient motivation to make the combination;

[5]: Reid is unnecessary as that Lehman discloses the claimed locking; and

[6]: The references have not disclosed the specific positioning of the mortise/tenons as claimed in claim 13.

Examiner disagrees:

Regarding [1]: Applicant merely claims that the means are actuated by the linear motion of the housing from in front of the electrical switching apparatus. Lehman discloses the auxiliary switch being mounted by linear motion on the housing. Applicant has not claimed any specific feature not shown by the engagement means of Lehman.

Regarding [2]: Applicant has not claimed any structure limiting access to the assembly.

Regarding [3]: Applicant has not precluded the use of screws to further secure the auxiliary housing.

Regarding [4]: In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, a skilled artisan would have been motivated to use the mortise/tenon to tightly secure the auxiliary switch on the housing and further maintain the connection by using the screw joints, if needed.

Regarding [5]: As acknowledged by applicant, Lehman discloses the claimed locking. Reid further teaches the provision of a locking mechanism.

Regarding [6]: Lehman discloses the joints being positioned as claimed.

### ***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

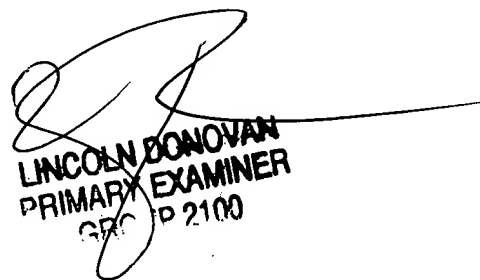
the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lincoln Donovan whose telephone number is (571) 272-1988. The examiner can normally be reached on M-F 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Elvin Enad can be reached on (571) 272-1990. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

ldd

  
LINCOLN DONOVAN  
PRIMARY EXAMINER  
GPO P 2100